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REJECTION OVER A PENDING "REFERENCE" APPLICATION**Docket Number (Optional)
1171/41687/139

In re Application of: Lewis George Graddon; Alastair Edwin McAuley; and Ivan Mitrojevic

Application No.: 10/785,646

Filed: February 24, 2004

For: BREATHING ASSISTANCE APPARATUS

The owner, Fisher & Paykel Healthcare Limited, of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on pending reference Application Number 10/487,518, filed on February 19, 2004, as such term is defined in 35 U.S.C. 154 and 173, and as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the reference application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

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